

# Probing the Future of Mandatory Retirement in Canada

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## RÉSUMÉ

L'avenir de la retraite obligatoire est au moins en partie motivé par une démographie en constante évolution. Au Canada, les données démographiques indiquent une baisse de croissance de la population, un vieillissement rapide, une baisse du taux de participation à la population active et une croissance ralentie de celle-ci. Après avoir passé en revue les tendances démographiques et analysé des scénarios alternatifs pour ce qui est de la participation à la population active, nous nous penchons sur les facteurs qui déterminent la retraite anticipée, et nous suggérons des stratégies susceptibles d'inverser cette tendance. Puisque le nombre de nouveaux travailleurs est en constante diminution, que les transitions de vie surviennent de plus en plus tard et que les indemnités de retraite risquent de diminuer, une tendance à retarder l'âge de la retraite inciterait à remettre en question l'idée même de retraite obligatoire.

## ABSTRACT

The future of mandatory retirement is at least partly driven by changing demographics. In Canada, these demographics include slowing population growth, rapid aging, declining rates of labour force participation, and slowing labour force growth. After reviewing the demographic trends and considering alternate scenarios in labour force participation, we consider the determinants of early departures from the labour force and suggest scenarios that might reverse these trends. With a decline in labour force entrants, delays in early life transitions, and possible reductions in retirement benefits, a trend to retire later would bring mandatory retirement into question.

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Manuscript received: / manuscrit reçu : 06/01/05

Manuscript accepted: / manuscrit accepté : 14/02/06

**Mots clés :** vieillissement, vieillissement de la population, retraite obligatoire, population active, politiques de retraite

**Keywords:** aging, population aging, mandatory retirement, labour force growth, retirement policy

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## Introduction

In early June of 2005, the Government of Ontario introduced Bill 211, an act to amend the provincial Human Rights Code and effectively ban mandatory retirement in Canada's largest province. A few months earlier, the government of British Columbia announced the formation of a Premier's Council on Aging and Seniors Issues to identify opportunities to improve the quality of life of older British Columbians and to reconsider the issue of mandatory retirement in that province. About a year earlier, Canadian Prime Minister Paul Martin, on reaching

office at the age of 65, made a very clear call for a national debate on the merits of mandatory retirement (Chase, 2003).

The efficacy and justice of mandatory retirement provisions in employment contracts have received considerable attention in a large literature. In this paper, we take a different approach, by examining how changing demographic and economic forces are altering the political equilibrium that sustains the current policy. By identifying and examining these changes, we intend to understand better the direction and outcome of the current debate.

We begin by examining the legal foundation of mandatory retirement in Canada and the human rights challenge to that foundation. Following this, we explore how the demographic context that shapes the debate on mandatory retirement is changing. The next section links the changing demographic context to the changing labour market environment, both within Canada and internationally. Finally, we draw some conclusions concerning the direction in which demographic and economic forces are likely to push the debate. We conclude that the aging population and the slow-down in the growth of the working-age population both point toward increasing pressure to prohibit mandatory retirement.

### The Current Canadian Situation

Mandatory retirement is not a policy at any level of government in Canada. Instead, it exists in the negotiated collective agreements and formal personnel procedures of many Canadian employers. Ending mandatory retirement, therefore, requires prohibiting contracts that stipulate an age-mandated end to employment. The civil rights side of the debate has focused on comparing the social benefits of a right to contract freely with the social benefits of a right to be free from age discrimination. Others in the debate compare the interests of older and younger workers; still others are concerned with evaluating the productivity of older workers or with possible moves to undermine pension plans if workers do not need to retire.

For those attempting to end mandatory retirement, the focus has been on strengthening the human rights protection against discrimination on the basis of age. One approach has been to test mandatory retirement provisions under the equality provisions of the Canadian Charter of Rights and Freedoms. The Supreme Court of Canada has ruled (several times) that, while the practice of mandatory retirement does violate equality rights, it is a reasonable limitation of these rights in a free and democratic society.<sup>1</sup> The failure of these charter challenges has forced opponents of mandatory retirement to try to affect change by altering provincial employment standards legislation or provincial human rights legislation.

Human rights legislation in every province explicitly prohibits age discrimination. The prohibition, however, is not absolute. Several provinces have an age cap that grants protection from age discrimination only to age 65. Several other jurisdictions have no age cap but exempt pension plans with explicit retirement dates from the legislation. With the recent reform in Ontario (which has yet to receive royal assent), only three provinces have effectively banned mandatory

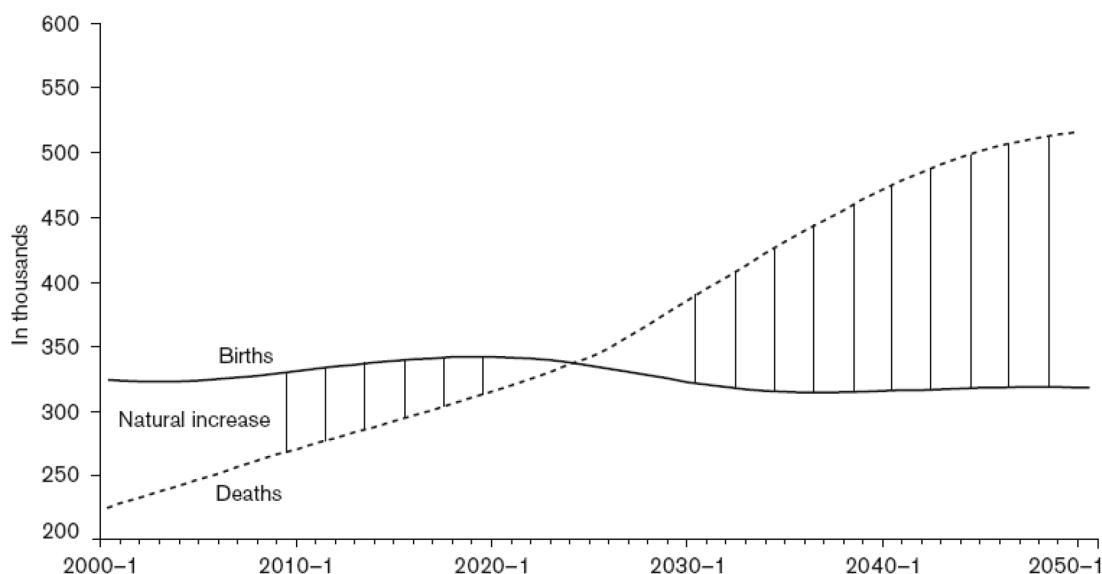
retirement. Manitoba has no age cap, and Quebec has banned mandatory retirement through its employment standards legislation. The federal government has also eliminated mandatory retirement for federal civil servants. The result is a patchwork quilt of regulation that amounts to a social experiment on the impact of the elimination of mandatory retirement.

In addition to the unusual jurisdictional variation on the admissibility of mandatory retirement, there is substantial variation in the use of mandatory retirement clauses in employment contracts. Only about 50 per cent of Canadian workers face mandatory retirement provisions in their employment contracts or collective agreements (Gunderson & Pesando, 1998, p. 33). Of those who have retired, only between 12 per cent (Gomez, Gunderson, & Luchak, 2002) and 21 per cent (Shannon & Grierson, 2003) report that retirement was triggered by a mandatory retirement clause. Of those who expect to be forced out at 65, only 18 per cent of men and 3 per cent of women would like to continue beyond 65 (Gomez et al., 2002). This implies that extending the ban on mandatory retirement will not have much impact on the overall age of retirement for most workers. Indeed, the Manitoba and Quebec experience suggests that the elimination of mandatory retirement will likely have a small impact on the employment and retirement of older workers (Shannon & Grierson, 2003).

### The Changing Demographic Context

The question of mandatory retirement is at least partly driven by changing demographic realities. In the Canadian context, the demographic reality is one of slowing population growth, rapid population aging, a declining rate of labour force participation, and a slowing rate of labour force growth.

On July 1, 2003, Canada's population was estimated at about 31,630,000 inhabitants, up by about 0.9 per cent from the previous year (Statistics Canada, 2004a). While many Canadians think of this as relatively slow growth, this rate is actually greater than it is in most other developed nations and only slightly down from the rate of growth that has characterized Canada throughout the last several decades. For example, the average growth rate of Canada's population over the full period 1971–1991 was 1.2 per cent annually, only to drop slightly to 1.0 per cent over the 1991–2001 period (Statistics Canada, 2002a). In contrast, the annual growth rate for all of Western Europe in 2003, taken together, was only 0.24 per cent, less than a third of the current Canadian growth rate (U.S. Census Bureau, 2004).



Source: Statistics Canada, 2001.

**Figure 1: Births, deaths and natural increase, 2001–2051: Statistics Canada's medium projection**

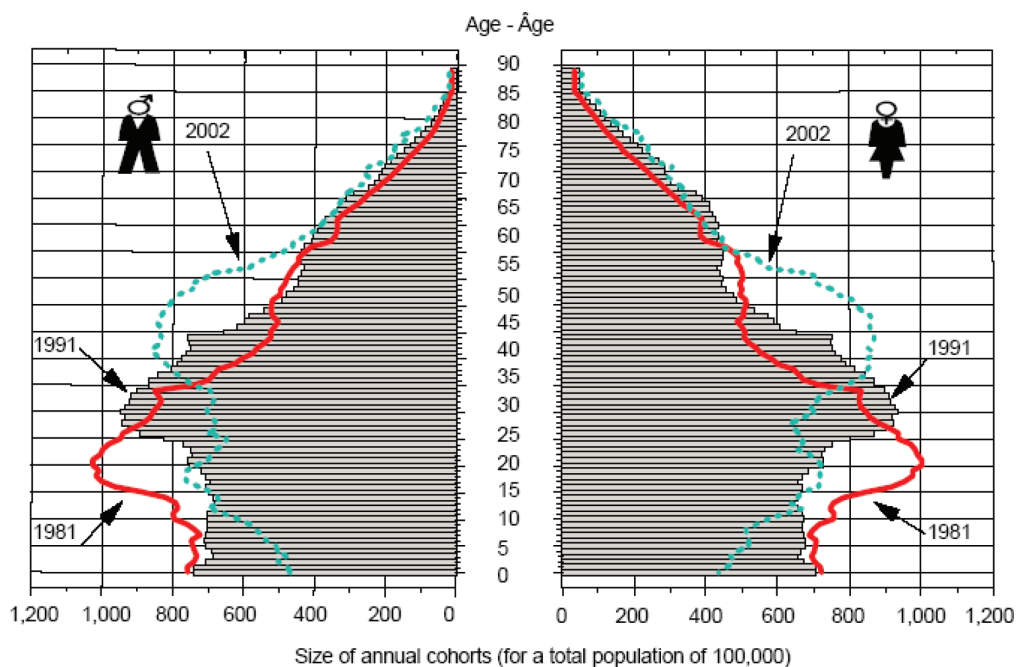
While Canada's population is growing more rapidly than in Europe, its pace of growth is comparable to its neighbour and major trading partner, the United States. This is true even though fertility is significantly lower than in the United States—about 1.5 births per woman in Canada in comparison with about 2.1 births in the United States (Statistics Canada, 2003a; U.S. Census Bureau, 2004). In explanation, the relative impact of immigration on both countries is fundamental. Much attention has been given to the large numbers who migrate to the United States, which in absolute terms admits more immigrants than any other receiving country. Yet in demonstrating the relative importance of immigration to Canada, the 2001 Census indicated that over 18.4 per cent of its population was foreign born (Statistics Canada, 2003b). There are very few countries in the world that accept more immigrants per resident than Canada.

While Canada's fertility fell below replacement as far back as 1972, its population continues to increase through both international migration and natural increase. As replacement fertility corresponds to 2.1 births, the Canadian public is somewhat confused as to why Canada continues to experience a positive rate of natural increase. Fears of imminent population decline have been voiced by those not fully familiar with the underlying dynamics of population growth (Baxter, 1998). As an example, much of the media exposure surrounding the 2001 Census argued, in a sensationalist manner, that Canada's population was

on the verge of population implosion. For example, the *Globe and Mail* reported on its first page that Canada's population would likely begin to decline by as early as 2010, an assertion that mystified Canadian demographers ("Canada is 30 Million", 2002).

Population growth is expected to slow considerably although there is a lack of consensus as to the extent of this slowdown and its timing. Due to Canada's population momentum, growth will continue for some time to come, despite below-replacement fertility. In effect, births in Canada continue to outnumber deaths, as the relative number of adults at ages when mortality is low outnumber by a substantial margin those in their later years of life, where the risk of death is high. Even though Canadian women are giving birth less often than is needed for replacement, the relatively sizeable cohorts at reproductive ages have ensured more births than deaths.

According to Statistics Canada's (2001) medium growth population projection, births will continue to outnumber deaths in Canada until 2025 (see Figure 1). This scenario is considered realistic, as it assumes that Canada's fertility and immigration will continue at current levels (about 1.5 births per woman and an annual immigration target of about 225,000). According to this scenario, Canada's population is expected to increase by about 20 per cent over four decades, prior to stabilizing, a growth much lower than the growth experienced over the previous four decades (when Canada's population grew by about 70%). In other words, while demographers do not



Source: Statistics Canada, 2003a.

**Figure 2: Age pyramid of the population of Canada: July 1, 1981, 1991, and 2002**

anticipate imminent population decline, the pace of population growth is expected to slow considerably.

In addition to the slowing population growth, Canada's population is aging. Population aging typically takes the form of an increase in the numbers of the old and a fall in the number of children and young persons. This aging of Canada's population is represented in Figure 2, which presents the population pyramids for Canada in 1981, 1991, and 2002. These age pyramids reveal a few features that are particularly striking, including (a) the relatively large size of the baby boom cohort (currently in their 40s and 50s) and (b) the rather pronounced shrinkage that has recently occurred at the bottom of the age pyramid.

Due to its mere size, the baby boom cohort has had a major impact on all sorts of societal institutions. Figure 2 demonstrates that many of the largest cohorts born during the baby boom were in their young adult years in 1981, were well established in the labour market and family life by 1991, and were moving into and through "middle age" in 2002. The shrinkage at the bottom of the population pyramid is seen in the 2002 pyramid by comparing the relative number of teenagers to the number of preschoolers. This major contraction that is currently occurring at the bottom of the age pyramid has received far less attention than the baby boom, partially due to the simple fact that Canadians have not thought through the long-term implications of this decline in births. In contrast,

the United States has not experienced this contraction in the number of births.

Annual births in Canada have been steadily falling for well over a decade. Since 1989, this number has fallen by almost 20 per cent, from about 403,280 in 1989 down to 327,187 in 2002 (Statistics Canada, 2003a). This is fully 32 per cent less than the 479,275 births that characterized the height of the baby boom in 1959. With the passage of time, both of these features of Canada's population pyramid (i.e., the baby boom and the contraction at the bottom of the population pyramid) will have several ramifications for the society. As merely one example, consider the fact that the 1959 cohort will be reaching 65 years round about the same time as the 2002 cohort enters into the labour market (in 2024).

In Canada, immigration is often considered a way of countering the effects of aging and low fertility, particularly among those who are concerned with sustaining a viable and growing labour force. Public discussion has not paid sufficient attention to the actual causal factors responsible for population aging or to the reality that immigration has little effect on the age structure. This was seen, for instance, in the *Globe and Mail* article that reported on the total fertility rate in 2000, down to an unprecedented low at 1.49 births (Jang, 2002). The third sentence of this article indicated that the low number of births "reinforce[d] government assertions that increased immigration [was] necessary to maintain a viable work force".

**Table 1: Selected age distribution indexes, Canada and selected countries, 2000 or 2001**

	Median Age (in years)	0–19 %	65+ %	20–64 %	Median Age 20–64 years	Ratio 20–39: 40–59	Ratio 15–24: 55–64
Canada (2001)	37.6	25.9	13.0	61.1	41.3	1.0	1.4
Other Countries (2000)							
United States	35.5	28.7	12.3	59.0	40.5	1.1	1.6
Germany	40.1	21.1	16.4	62.5	41.5	1.1	0.8
France	37.6	25.3	16.0	58.7	40.8	1.1	1.4
United Kingdom	37.7	25.2	15.8	59.1	40.7	1.1	1.2
Italy	40.2	19.6	18.1	62.3	40.7	1.2	1.0
Japan	41.2	20.6	17.2	62.2	42.7	1.0	1.0
Russia	36.9	26.1	12.5	61.4	41.0	1.1	1.6
Australia	35.2	27.6	12.3	60.1	40.1	1.1	1.6
Mexico	23.3	43.4	4.7	51.9	34.1	2.1	4.0
World	26.5	39.1	6.9	54.0	36.8	1.6	2.7
More Developed Countries	37.4	25.1	14.3	60.6	40.9	1.1	1.3
Less Developed Countries	24.2	42.5	5.1	52.4	35.7	1.8	3.3
Least Developed Countries	18.1	53.9	3.1	43.0	33.7	2.2	4.9

Source: Statistics Canada, 2002c.

Similarly, with the release of the first age/sex data from the 2001 Census, then-Prime Minister Jean Chrétien reacted by stating that the federal government was trying to attract more immigrants to solve the aging population problem ("Labour Market", 2002).

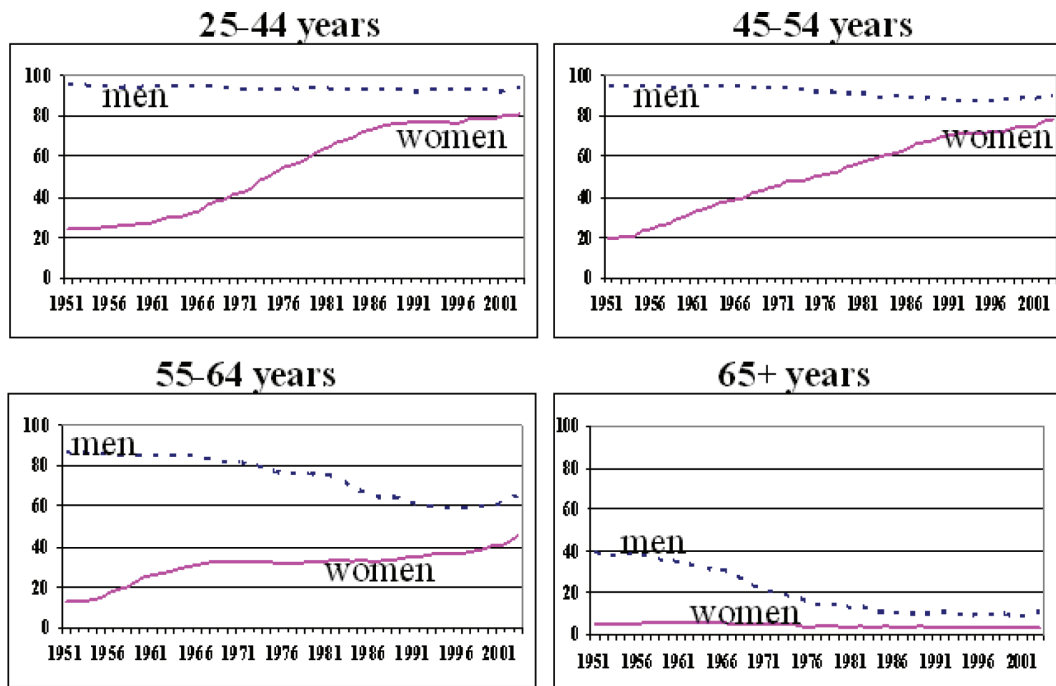
Both immigrant arrivals and the receiving population have been aging, but arrivals remain younger on average. However, the overall effect is rather small, given that immigrant arrivals represent a small part of the total population. Other measures confirm that immigration has only a small effect; thus, for instance, simulating population change after 1951 as a function only of births and deaths produced a 1981 population with an average age that was only 0.5 years older than the actual average observed in that year (Le Bras, 1991). As another example, with no international migration over the period 1951–2001, median age in Canada would have been only 0.8 years older than it actually was (Denton, Feaver, & Spencer, 2001). The Statistics Canada (1990) population projections based on the 1986 Census produced a median age in 2036 that was almost 2 years younger under high immigration than under zero immigration. This means that the arrival of 200,000 immigrants per year for 50 years would reduce the average age by only 2 years. In comparison, the median age of the Canadian

population increased by 2.3 years between 1996 and 2001.

To draw a few international comparisons, population aging is at a more advanced stage in Europe, where Chesnais (1989) speaks of an inversion of the age pyramid. At the turn of the century, the proportion over 65 was already over 18 per cent in Italy and 16.4 per cent in Germany (see Table 1). The figure for Canada (at 13%) is lower than the average for the more developed countries and it is not expected to reach 18 per cent until after 2016. Nonetheless, the Canadian change is now as rapid as that of European countries, and it will be more rapid once the larger baby-boom generation cohorts move into retirement ages. Whereas just over 1 in 10 people were over 65 in 1986, some 50 years later, in 2036, the medium projection suggests that almost a quarter of the population will be at these ages (Statistics Canada, 2001). Along with a median age of some 45 years and more than 12 per cent of the population being aged 75 and over, this will make for a rather different demographic profile.

### Slowing Growth in the Labour Market

Just as Canada is not facing an immediate population implosion, so too the size of its working-age



Sources: Denton & Spencer, 1998; Statistics Canada, 2004b.

**Figure 3: Labour force participation rates by age and sex, 1951–2003**

population is also projected to continue growing for several years. Yet, just as overall growth is expected to slow, so too will the pace of growth in the working-age population. According to Statistics Canada's most recent series of projections, the population aged 18–64 is projected to grow at least until 2016 and perhaps for many years beyond this (Statistics Canada, 2001). The impact on the labour force will, of course, depend on labour force participation decisions. As the majority of Canadians aged 18–64 are members of the labour force (i.e., about 4 out of 5 persons are either employed or looking for work), this growth in population is expected to translate into labour force growth (Statistics Canada, 2004b). Yet if we are more careful, the extent to which this will occur is far from clear, given ongoing uncertainty with respect to future labour force participation rates and the manner in which these may vary by age and sex.

While immigration is another fundamental source of recruitment to the labour force, it is important not to exaggerate its importance. It could be argued that depending excessively on immigration may lead to the neglect of other sources of recruitment (i.e., failure to make the necessary investment in education for labour force entrants and/or ongoing training or retraining for older workers). This can also lead to a neglect of population groups that have historically

had low labour-force participation. As about 20 per cent of Canadians aged 18–64 have no involvement in the labour force, there is room for increasing overall participation rates. Older Canadians, in particular, are under-represented; for example, only about 55 per cent of persons aged 55–64 participated in the workforce in 2003 (Statistics Canada, 2004b). Among Canadians over 65, the proportion involved in the labour market plummets, as only about 1 in 14 persons is classified as working, most of whom continue to work only on a part-time basis (Statistics Canada, 2004b).

Figure 3 demonstrates the relatively low participation rates of older Canadians by presenting age/sex-specific labour force participation rates for the period 1951–2003. There have been some rather dramatic changes for both men and women over the last half century. Particularly striking is the phenomenal increase in the labour force participation of women. For example, the participation rate for women aged 25–44 reached an all-time high in 2003, up to about 81 per cent. Among women aged 45–54, participation rates have continued to increase through to the present, up to an all-time high of 79 per cent. This substantial rise in female labour force participation has more than offset trends in the opposite direction for men. Participation rates by gender have tended to converge across all age groups. Women now

make up almost half (or 46%) of Canada's workforce in 2003, although they continue to be significantly more likely to be working part-time (with about 1 in 4 working women doing so relative to fewer than 1 in 10 men).

While participation rates are up for women, they have declined slightly for younger men. Among women aged 45–54, participation rates have continued to increase throughout the 1990s, whereas for younger women, these rates have largely levelled off. Among Canadians aged 55–64 and over 65, Figure 3 demonstrates the relatively low participation rates for both men and women. Among older men (aged 55–64), there was a substantial decline in participation rates, from about 87 per cent in 1951 to only 59.1 per cent in 1998—rebounding somewhat to 65 per cent in 2003. Among Canadian men over 65, about 40 per cent were in the labour force in 1951, dropping to about 11 per cent by 2003. Among women aged 55–64, the participation rate has reached an all-time high of 46 per cent in 2003, albeit still much lower than among younger age groups. Among women over 65, labour force participation has always been extremely low and has, for several years, been at about 5 per cent.

While these labour force rates demonstrate the extent that Canadians wind down their commitment to paid employment as they move into their later 50s and into their 60s, it is precisely these older age groups that are now set to grow at a dramatic pace over the next decade. For example, according to the medium growth projection by Statistics Canada (2001) mentioned earlier, the number of persons aged 50–59 is expected to grow by 42.6 per cent between 2001 and 2011, whereas the 60–64 age group is expected to grow by fully 55.8 per cent. This is the by-product of the front-end baby boomers moving towards retirement (i.e., due to the aging in the middle of Canada's age structure). Over this same period, only modest growth is projected for Canadians of labour force entrance age, comparable to Canada's overall growth rate.

This change in composition should result in a decline in aggregate participation rates, unless it is offset by major shifts in age/sex specific rates. Briefly, Canada's labour force is now older than ever before, with further population aging placing downward pressure on overall participation rates. In light of these changes, most labour force projections into the twenty-first century suggest slow or negligible growth beyond 2011 (Denton & Spencer, 1998; Denton, Feaver, & Spencer, 2000; Chief Actuary of Canada, 2003). Whether or not this will lead to labour shortages is difficult to forecast, although the Chief Actuary of Canada (2003), responsible for managing the Canadian Pension Plan (CPP), has recently

emphasized that population aging and resultant labour shortages will likely be one of the most fundamental challenges to be faced by both the private and public sectors as we move into the twenty-first century.

In this context, the extent to which older Canadians involve themselves in the labour market will have several important ramifications. Younger cohorts will not necessarily behave in a similar manner to those currently moving through middle age and retirement. Tomorrow's older Canadians will not be the same as today's older Canadians, since they will have had very different life histories (Cheal, 2003). In particular, their early life transitions have been delayed, making it reasonable to think that they will work longer at the other end of their lives (Beaujot, 2004). Consequently, any derived forecasts that merely assume a continuation of current age/sex-specific participation rates into the future will in all likelihood be off the mark.

Table 2 provides three alternate forecasts on future labour force growth for the period 2001–2011, demonstrating the extent to which future labour force growth can potentially be influenced by changes in age/sex-specific participation rates. While all three forecasts are derived projections (based on the medium growth projection of Statistics Canada), the first assumes no change in current age/sex labour force participation rates (column 5), the second assumes a return in male participation rates to those observed in 1981 (column 6), whereas the third also assumes that women will obtain parity with men in terms of this involvement (column 7).

For the 2001–2011 period, Canada's population over 15 years is projected to increase by about 11.6 per cent, whereas the size of its labour force is projected to increase by about 7.4 per cent when assuming constant rates, 12 per cent when assuming the higher rates for men, and 26 per cent if women obtain parity in this regard. While these latter two scenarios may not be especially realistic, they do demonstrate one very important point in this context (i.e., the extent to which Canada's labour force can potentially grow by increasing the involvement of population groups that currently have relatively low levels of labour force participation). Whether or not recent trends toward earlier retirement will be reversed anytime soon will have very important ramifications in this context.

### **Reasons for Declining Participation among Older Workers**

Great uncertainty lies in forecasting the labour force participation of older Canadians. This involves

**Table 2: Alternate forecasts of Canada's labour force, 2001–2011**

Age	Population, 2001 <sup>a</sup>	Projected Population, 2011	Population change (%)	Labour Force, 2001 <sup>b</sup>	Projected Labour Force, 2011 <sup>c</sup>		
					Using 2001 Constant Participation Rates	Using 1981 Rates for Males	Using 1981 Rates for Males, Parity for Females
	(1)	(2)	(3)	(4)	(5)	(6)	(8)
15–19	2,081.0	2,175.0	4.5	1,087.5	1,136.6	1,211.5	1,287.6
20–24	2,097.0	2,241.4	6.9	1,614.8	1,726.0	1,812.9	1,954.5
25–29	2,100.3	2,263.5	7.8	1,800.3	1,940.4	1,978.3	2,130.0
30–34	2,252.5	2,293.0	1.8	1,939.9	1,975.4	2,012.6	2,201.3
35–39	2,641.7	2,278.1	-13.8	2,278.6	1,965.2	2,006.6	2,189.3
40–44	2,659.1	2,370.3	-10.9	2,311.0	2,060.6	2,099.9	2,263.6
45–49	2,384.9	2,681.7	12.4	2,037.6	2,292.6	2,331.8	2,523.5
50–54	2,114.7	2,637.4	24.7	1,681.7	2,097.9	2,154.5	2,397.4
55–59	1,625.9	2,318.3	42.6	1,019.4	1,453.2	1,566.6	1,908.0
60–64	1,291.1	2,011.3	55.8	477.5	744.0	911.3	1,287.2
65–69	1,137.8	1,495.8	31.5	134.2	176.4	205.2	300.7
70+	2797.3	3350.1	19.8	56.2	93.2	120.9	268.0
Total	25,183.3	28,115.9		16,438.6	17,661.4	18,412.1	20,711.0
	Participation Rate (15+ years)			65.28	62.8	65.5	73.7
	Percentage Increase		11.6		7.4	12.0	26.0

a These population figures are derived from Statistics Canada's most recent round of population projections, using the Medium Growth Scenario (Statistics Canada, 2001).

b These labour force estimates corresponding to July 1, 2001 are based on 2001 age-specific rates and July 1 population.

c Column (5) is a projection of the labour force using the Medium Growth Population Scenario and constant age/sex-specific 2001 labour force participation rates; column (6) uses the same population projection scenario and introduces 1981 age-specific labour force participation rates for males; column (7) uses the same population projection scenario, 1981 age/sex-specific labour force participation rates for males and females (i.e., assumed parity in LFP).

coming to terms with why the labour force participation of older workers and the average age of retirement has declined so dramatically over the last 30 years.

The analysis of why older workers leave the labour force is far from straightforward, and even on a descriptive level, there are major obstacles to accurately documenting the pattern (Leblanc & McMullin, 1997; Pyper & Giles, 2002; Rowe & Nguyen, 2003). Probably the largest obstacle is methodological—empirically distinguishing retirement from other forms of early labour force exit. For example, the Canadian Labour Force Survey directly asks respondents why they left their previous job, with reasons

broadly classified as either voluntarily (*retirement, personal or family responsibilities, dissatisfied with job, and other reasons*) or involuntary (*laid off or experiencing illness/disability*). The problem with relying on this definition is that, in many cases, the act of withdrawing from the labour force is far from straightforward and may, in fact, involve a combination of several of the factors mentioned above. In addition, there are also questions relating to validity in measurement, as not everyone is necessarily going to be entirely forthcoming regarding the real reasons for leaving a previous job.

A proportion of all older Canadians leaves the labour market on a voluntary basis, while for many others,



this is not a matter of choice. Many Canadians decide to retire early in light of accumulated wealth and savings, while others leave paid employment as a result of health problems, disability, or perhaps difficulties in maintaining a job or finding a new one if they are unemployed (McDonald & Donahue, 2000). Some older workers lose their last job through layoffs and/or some other form of forced exit from the labour market, never to re-establish themselves in the work force. Some workers retire from a job and begin to draw their pensions and yet, for whatever reason, continue to work on a part-time basis. Others retire early, only to decide to return to the labour market after a period of retirement. Merely asking respondents via a cross-sectional survey whether they “retired” over the previous 12 months does not capture the wide range of experience that characterizes this transitional period.

Many cases of permanent withdrawal from the labour force will never be classified as retirements. As people approach retirement age, many enter an extended transitional stage, characterized by periods of employment (full-time and/or part-time) interspersed with periods of unemployment and non-employment (McDonald, Donahue, & Marshall, 2000). Increasingly, researchers are coming to appreciate that retirement might be better thought of as a process rather than a well-defined event that occurs at a specific point in time and that it is consequently not easy to operationalize in empirical research (Osberg, 1993; Blau, 1994; Statistics Canada, 1998; Habtu, 2002). Retirement is not easily defined, which presents difficulties in providing an explanation for recent trends, let alone providing a forecast of future trends.

As Osberg (1993) has pointed out, a reliance on *self-definition* can potentially provide misleading information, particularly in light of the stigma that often accompanies being laid off or unemployed. While this stigma persists, there is an increasing acceptance of *early retirement* among Canadians, even among those who could potentially continue to work for many years. In a situation where older workers lose a job, Osberg has suggested that a certain proportion may misreport the reason for exiting the labour force and identify themselves as *retired* rather than *involuntarily unemployed*. In this manner, an analysis of the labour force participation of older workers may miss a form of *hidden unemployment* that in the survey data resembles retirement. Schellenberg (1994) has pointed out how older workers seem to be over-represented among discouraged workers (i.e., those who have abandoned their job search) and also tend to be unemployed for longer periods of time. If an older worker loses his or her job, without the skills for easy re-entry into the labour market, might this same

worker report that she/he has retired—to preserve self-esteem? According to the 2002 General Social Survey in Canada, a significant proportion of all recent retirees would have continued to work if their health permitted and/or if suitable employment were available (Schellenberg, 2004; Schellenberg & Silver, 2004).

In examining the experience of several cohorts of older workers, Rowe and Nguyen (2003) document a relatively high level of job turnover, which directly contradicts a widespread impression that the last several years in the career of older workers are a period of relative stability. Counter to expectations, older workers were found to experience similar rates of job turnover to those of younger workers but, on losing a job, were much less likely to be re-employed, with many leaving the labour force entirely. With considerable job turnover, a significant proportion of all job separations were in fact involuntary (i.e., involving a layoff). In following cohorts, who reached their 65th birthday during the early 1990s, Rowe and Nguyen (2003) estimated that only 51 per cent of men and 30 per cent of women had ever reported retirement when leaving their last job. While retirement seems to express a clear intention to withdraw voluntarily from the labour market, most of the other reasons listed in the Labour Force Survey suggest an involuntary exit from paid work. The high level of job turnover suggests that barriers or disincentives to re-employment for older workers may be an important issue in the future. There may be considerable interest among older workers to continue with paid employment if they are provided proper incentives and real opportunities for re-entry. The turnover also suggests that the elimination of mandatory retirement provisions is likely to have a very modest impact on the timing of the movement to retirement from regular attachment to the labour force.

Research by Baker, Gruber, and Milligan (2003) adds a further complication, associated with impact of public pension entitlements. Unlike earlier studies (Baker, 2002; Baker & Benjamin, 1999a, 1999b; Crompton, 2000), they find clear evidence that improvements to these entitlements have had a large impact on the age of retirement. The resulting conclusions that can be drawn is that the retirement decision is the result of a truly complex set of interacting factors that include changing labour market opportunities, private pension benefits, public pension entitlements, technology, and attitudes to work and leisure.

Beyond labour market events, many careers have ended through illness or disability. Yet, with improvements in population health, the risk of morbidity and serious disability has declined in quite a pronounced

manner for older workers over recent decades. The likelihood of heart disease has declined, as has high blood pressure, arthritis, among other chronic conditions that serve to place limitations on activity (Chen & Millar, 2000; Crompton, 2000; Hogan & Lise, 2003). Among Canadians reaching their 65th birthday, only about 15 per cent report a disability affecting the ability to work that could clearly justify the end of a working career (Michaud, George, & Loh, 1996). The lower participation rates of older men over recent years does not appear to be a function of poor health or physically demanding work, because both health and working conditions have improved. Yet, as between those men and women who retire for health reasons and those who retire for other reasons, health retirees have been shown to be disadvantaged in terms of human capital variables, work history, and retirement income (McDonald & Donahue, 2000).

Life expectancy at birth has been steadily increasing in Canada—up to 82.2 for women and 77.1 for men—more than 2 years longer than in the United States (Statistics Canada, 2002b). In a similar manner, *disability-free* life expectancy has risen (i.e., the number of years on average one could expect to live in good health and without serious disability (Martel & Bélanger, 1999). Recent improvements in the state of population health serve to highlight the rather arbitrary character of the marker typically associated with the beginning of old age or normal retirement (i.e., the age of 65). In light of better living conditions, lifestyle and quality of health care, the average 65-year-old (or even 70-year-old) is not as old today as 30 years ago. As Denton and Spencer (2002) have argued, this marker for old age should be moved upward, to the extent that we succeed in retarding what is inevitable (i.e., the aging process).

While we have witnessed these gains in terms of longevity, the median age of retirement has continued to decline, down to about 60.6 years in 2002 from about 65 in the 1970s (Statistics Canada, 2004b). With a declining age of retirement and a climbing life expectancy, Canadians experience, on average, a longer period of labour force inactivity in relatively good health. With longer lives yet shorter careers, the majority are no longer in the work force when they reach this somewhat arbitrary retirement age of 65. Yet while 65 has become a much less popular age to retire, it does continue to remain the most common, as the intensity of retirement peaks at this age (Kieran, 2001). For those who work in organizations with a mandatory retirement policy, there is little choice about working beyond 65, which partially explains this pattern.

The evidence regarding the extent to which workers may prefer to continue yet are forced to retire is very limited and increasingly dated (Economic Council of Canada, 1979). As estimated by the federal government in the early 1990s, only about 1 in 5 men who were subject to mandatory retirement might have preferred to continue working, and fewer than 1 in 10 women (Canada, Department of Health and Welfare, 1993). Consistent with recent research on retirement intentions, the majority of Canadians do not plan on working beyond the age of 65, implying that we should not overstate the importance of legislation relating to mandatory retirement (Cranswick, 2003). Regardless of what happens in terms of mandatory retirement in Canada, there appear to be many powerful incentives and reasons for early labour force exit. An uncertain proportion of workers leave the labour force at a relatively young age as they have accumulated the necessary wealth and pension benefits. An uncertain proportion leave the labour force due to factors that are against their will, never to re-establish themselves in paid work. A minority of all workers are, in fact, forced from their job at 65 due to mandatory retirement provisions. According to recent data from the 2002 General Social Survey, about 12 per cent of recent retirees said they would have continued to work if not for mandatory retirement policies in their workplace (Schellenberg & Silver, 2004). Among working Canadians, almost one third report that they are not sure about the timing of their retirement, a fact that suggests considerable potential for increasing participation rates among older workers if proper incentives and working conditions are introduced (Schellenberg, 2004).

Looking back over the last 30 years, the increase in early retirement is truly remarkable, given the increase in life expectancy. While research is not yet conclusive about the cause of these changes, three factors stand out: a weak labour market for older workers, a strong capital market for savers, and improving public pension entitlements. The very rapid growth in the labour force discussed earlier no doubt contributed to the stagnant wage growth and weaker tenure faced by workers. With impending slowdowns in the growth of the working age population, many observers are expecting labour market conditions to improve for workers. The strong returns in capital markets were historically unprecedented, and the impending retirement of many aging boomers itself reduces the likelihood of such levels of return in the future. As a result, without the pension surpluses and the unexpected wealth windfalls, early retirement is unlikely to be as enticing as it has been. Finally, the trend in public pension improvements is likely at an end, with the challenge

being to sustain the largely pay-as-you go public pension system. All three factors suggest that the trend to earlier retirement might begin to reverse. Certainly, such a reversal has already been seen in the United States (Glendell, 2001).

### **Mandatory Retirement in Other Countries**

For many commentators, mandatory retirement is one and the same as “age discrimination” (MacGregor, 2005; Munroe, 2005). Mandatory retirement is often described as a rather blunt instrument with which employees are “forced” into retirement, regardless of their qualifications, experience, or productivity. As human rights codes prohibit discrimination in employment, the thrust of mandatory retirement appears to violate directly equality provisions under the law. For example, in Canada, the 1982 Charter of Rights and Freedoms prohibits discrimination on the basis of race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability. In a similar manner, most other countries throughout the Organisation for Economic Co-operation and Development (OECD) explicitly prohibit discrimination in the work place on the basis of these characteristics, including unfair practices in the hiring, training, and promotion of older workers.

In light of the above, it might seem somewhat paradoxical that, internationally, relatively few countries have introduced legislation explicitly to prohibit mandatory retirement (Hornstein, 2001). With rapid population aging and slowing labour force growth, countries across the OECD have enacted legislation and policies that directly prohibit age discrimination, while continuing to exempt mandatory retirement from such legislation. Only a handful of countries currently prohibits mandatory retirement, including the United States, Australia, New Zealand, Norway, and, to a partial extent, Canada. While there has been some talk in the European Parliament of doing away with mandatory retirement, directives against age discrimination have hitherto not directly targeted this policy. In December 2004, the United Kingdom abandoned its previous promise of doing away with mandatory retirement by 2006, demonstrating that there continues to be considerable resistance to discarding the policy (Daley, 2004).

In this context, the Secretary General of the OECD (2000, p. 28) continues to emphasize the importance of promoting a more active role for older people in the economy and society, including “efforts to combat ageism in all its forms”. Yet while there has been much change in attitudes toward gender and race discrimination, there has been considerably less

change in the attitudes of employers and society toward older workers and their rights in the labour market. At first glance, it is difficult to understand the resistance in Europe to doing away with mandatory retirement, particularly given that population aging is at a more advanced stage than is currently the case in North America. In fact, Canada, the United States, and Australia all continue to have considerably younger age structures than is the case in Europe, while also witnessing more sustained labour force growth.

This continued acceptance (or at least tolerance) of mandatory retirement implies that the debate surrounding compulsory retirement is far from straightforward and is not easily resolved in the current economic and political climate. For example, there is a widespread impression among the general public that mandatory retirement allows for a healthy level of renewal in the labour market by creating employment and promotion opportunities for younger workers. The observation that unemployment continues to be higher throughout many European countries than in North America might at least partially explain this situation. Furthermore, the cultural idea of early exit from the labour force appears to be even more powerful in Europe than is true in North America. Labour force participation rates for older workers (55–64 years) are significantly lower throughout most of the European Union, as is the average age at retirement (OECD, 2000). In addition, international comparisons tell us that retirement is earlier when the minimum age for entitlement to pension benefits is lower, when the value of pensions is higher, when there are fewer pension benefits from additional years of work, and when disability pensions are available below the normal retirement age (Gruber & Wise, 1997). In comparisons across countries, Bongaarts (2004, p. 6) finds that the pension-benefit ratio (average public pension per pensioner divided by average earnings per worker) is higher throughout much of Western Europe than in North America—it is highest in France, Germany, Italy and significantly lower in Canada, the United States, and the United Kingdom. As suggested by Novelli (2004), it would appear that the idea of an early retirement is commonly thought of almost as a birthright in Europe, with widespread public opinion against any effort to raise retirement ages. This is further complicated by the perception (whether justified or not) that prohibiting mandatory retirement may be a first step in raising the age at which workers can qualify for public and private pensions. With the United States choosing to raise the normal age of retirement for younger cohorts from 65 to 67 (Light, 1995), this linkage between the elimination of

mandatory retirement and a weakening of pension benefits seems a reasonable concern.

In countries where mandatory retirement has been prohibited, the abolition of an upper age limit on age discrimination legislation was typically the by-product of considerable political debate, with reforms often introduced in a piecemeal fashion. For example, in the United States, the American Association of Retired Persons (AARP) was particularly instrumental in pushing for the abandonment of mandatory retirement, initiating and sponsoring political lobbying efforts and court challenges that attacked the inherent ageism of forcing a person to retire at 65. As a result, the federal government reformed the Age Discrimination to Employment Act in 1978, first allowing workers to continue to work to age 70 before prohibiting mandatory retirement altogether in 1986. Now that the United States has had several decades of experience without mandatory retirement, there is evidence to suggest that the impact of the measure has been relatively modest overall in terms of influencing the employment of older workers (Neumark & Stock, 1999). As merely an example, the average age at retirement was actually lower (albeit slightly) in the early 2000s than it was prior to the introduction of the prohibition on mandatory retirement 25 years earlier (Glendell, 2001).

There are obviously major methodological challenges in trying to isolate the effect of age discrimination legislation, particularly in countries where the abolishing of compulsory retirement is relatively recent. The only other country with some history in this area is Norway, which made it illegal to enforce mandatory retirement before the age of 70 as far back as the later 1970s (Norway, Royal Ministry of Foreign Affairs, 2002; OECD, 2004). Over the last several decades, participation rates in the labour force have continued to drop for older workers in Norway, as is true in most other developed nations. The consensus in Norway is that restrictions on mandatory retirement have not significantly influenced the behaviour of older workers, as early retirement continues to be the norm (Tysse, 2001). In New Zealand, mandatory retirement was first raised to age 65 in 1993 and then abolished altogether in 1999, leaving it rather premature to draw any inferences as to its impact. In Australia, compulsory retirement was first abolished in New South Wales in 1990—in Queensland, South Australia, and the Northern Territory in 1994—only to be abandoned throughout the rest of the country by 1999 (Encel, 2001). In many ways, a similar situation appears to be evolving in Canada, as Ontario appears to be following Quebec and Manitoba's lead in abolishing mandatory retirement. In a piecemeal fashion, the 2005 British Columbia throne speech has promised to

consider elimination of mandatory retirement in the near future (BCStats, 2005).

### **The Future of Mandatory Retirement in Canada**

A little over 20 years ago, Kingsley Davis introduced the idea that population aging, in and of itself, could serve to disrupt seriously traditional accommodations across generations (Davis & van den Oever, 1981). He argued that, as the demographic weight of the elderly increased, intergenerational conflict over resources would lead inevitably to resolutions more favourable to the interests of older families. Subsequent demographic research has moderated such claims (Cheal, 2003; Hicks, 2003a). Nevertheless, shifts in Canada's age structure are expected to have a profound impact on the evolution of the political equilibrium that sustains current policies. If changing demographic and labour market realities have a predictable impact on the interests of those sustaining the political equilibrium, it may be possible to predict the direction of change in the equilibrium—or at least the areas where changing interests are likely to matter.

Among those involved in the debate over mandatory retirement, the most active in defence of mandatory retirement has been organized labour (Klassen & Forgione, 2005). Nationally, the Canadian Labour Congress (CLC) has supported the right of unions to negotiate collective agreements that have mandatory retirement clauses. Buzz Hargrove, president of the Canadian Auto Workers (CAW), has expressed deep concern that the elimination of mandatory retirement will disrupt orderly renewal of the workplace with younger workers and workers from equity groups; increase the supervision of worker productivity, particularly for older workers; provide a way for governments to avoid their social security obligations; and provide leverage for firms to shift risk onto employees by under-funding defined-benefit pensions or transforming them into defined-contribution programs (Hargrove, 2003). Sid Ryan, president of the Canadian Union of Public Employees (CUPE), has said that "eliminating mandatory retirement is part of the harmonization of social and pension programs that has occurred since the free trade debate in 1988. It is an opportunity to undermine existing pension schemes. This is the danger it brings about" (Klassen & Forgione, 2005, p. 72). Similarly, the Ontario Federation of Labour (OFL) has expressed concerns that the planned elimination of mandatory retirement will lead to serious decline in pension benefits and increases in the age of eligibility. They therefore have asked that, in any new bill restricting mandatory retirement, unions be allowed to retain the right to

negotiate mandatory retirement in collective bargaining agreements (OFL, 2004).

The clear worry is that the elimination of mandatory retirement threatens many important worker gains in economic security. The United States experience of diminishing social security entitlements together with a movement away from defined-benefit pensions towards defined-contribution pensions reinforces this view. Yet not all Ontario unions are opposed to eliminating mandatory retirement; for example, the Ontario Federation of Teachers (OTF) has recently stated that it feels secure with its pension plan regardless of what happens with this retirement policy (OTF, 2004). Similarly, there has been no attention focused on Quebec's experience with the elimination of mandatory retirement. Quebec continues to have high levels of unionization and has seen little or no erosion in retirement benefits or income security. Nor is there any evidence that organized labour is planning any sustained effort to reintroduce mandatory retirement in the province, which was legislated out of existence in the early 1980s with little opposition.

Business has had a mixed view of the efficacy of eliminating mandatory retirement. The Canadian Council of Chief Executives (CCCE) does not have an official position on the elimination of mandatory retirement, although its president, Thomas d'Aquino, has spoken out in favour of its elimination (MacQueen, 2004). In contrast to the CCCE's non-position, the CME (Canadian Manufacturers and Exporters) has strongly stated its opposition to the elimination of mandatory retirement—making the argument that mandatory retirement is a necessary part of its labour compensation strategy (CME, 2004). Relevant in this context is the widespread impression that mandatory retirement assists industry in terms of its longer-term planning, allowing for labour contracts that defer compensation. In effect, it has long been felt by many employers that younger workers must accept being under-compensated in exchange for a promise of a seniority premium and a pension. It has been argued that such deferrals allow employee monitoring to be reduced, increase employee loyalty and motivation, and reduce job turnover, which in turn increases the rate of return to investments from employee training (Lazear, 1979). And mandatory retirement provides employers a non-contentious means of limiting this seniority premium period (Gunderson & Hyatt, 2005).

While many large corporations have viewed mandatory retirement as important in this regard, there is considerable evidence that many firms are rethinking the model. For example, the Certified General

Accountants Association of Canada (2005) has released a report urging a search for alternatives to mandatory retirement. Concerns about an expected skills and labour shortage, growing liabilities and risks associated with existing defined-benefit pensions, and worries that growing use of public services by an aging population will increase the pressure to increase taxes have all played a role in this reassessment.

Into the twenty-first century, the political equilibrium that has sustained mandatory retirement is shifting. Driven by pressure from Canada's political and bureaucratic élites (Gillin, 2005), mandatory retirement is in retreat. For example, in Ontario, both the governing Liberal Party and the opposition Conservative Party are in favour of its abolition. In British Columbia, the 2005 throne speech mentioned mandatory retirement as an issue that the province would be examining. In provinces where mandatory retirement has been abolished, there is little or no pressure to re-introduce it. Federally, the Conservative Party of Canada has the abolition of mandatory retirement as an element of its platform (Canadian Association of Retired Persons [CARP], 2004). The government of Canada has eliminated mandatory retirement for its civil servants, and the previous prime minister, Paul Martin, called for a national debate on this issue ("Martin against Mandatory Retirement," 2003). Within the Liberal Party, the party's youth wing has moved that "the Liberal Party of Canada encourages the Government of Canada to deem mandatory retirement a discriminatory practice and abolish mandatory retirement practices" (Nova Scotia Young Liberals, 2005). The only national party officially opposed to eliminating mandatory retirement is the New Democratic Party (CARP, 2004).

One reason for government interest in eliminating mandatory retirement is the concern over rising public pension and health insurance liabilities. With the proportion of the life cycle devoted to paid employment decreasing throughout the twentieth century, especially in the last quarter (Sunter & Morissette, 1994), governments have also become concerned about falling revenues. The rising fiscal burden from these changes has forced government into a leadership role. In pushing such an agenda forward, the federal government does not have much room to act. Mandatory retirement clauses are clearly a matter of provincial jurisdiction, and the Supreme Court of Canada has ruled that such clauses are not in contravention of the Charter of Rights and Freedoms.

Given that the federal government cannot force the issue, the government's priority has been to search for ways to maximize the labour market participation of

all segments of the population. In support of this aim, the Policy Research Initiative (2004, March) looked for ways to increase flexibility and choice in labour force involvement as a means to allow for work–life balance, reproduction, caring, and the extension of the work life. The element of “choice” is highlighted—including periods of withdrawal or partial withdrawal from the labour force and choice in the retirement decision. Recent research has suggested that people will consider working longer at a job that they enjoy, assuming that their health is adequate and that there is a possibility of working flexible or part-time hours (Policy Research Initiative, 2004, July). While the problem remains that many people do not like their jobs, it is also true that many older workers are denied the opportunity of gaining the necessary skills and training that lead to more interesting and rewarding employment (Hicks, 2003b). Surveys of older workers indicate that the majority want gradual or transitional retirement (Gendron, 1997).

To support a movement towards more flexible retirement, the federal government has identified a few areas where flexibility can be introduced. Defined-benefit pension plans that are based on the last 5 years can be changed in order to remove the disincentives that prevent older workers from choosing a more gradual withdrawal from the labour force. Other retirement incentives associated with benefit programs should also be looked at (Gruber & Wise, 2004). In this context, the federal government has acted to increase labour market flexibility by introducing pro-rated benefits in the Canada Pension Plan for those retiring between ages 60 and 70. There does not seem to be any apparent appetite for following the United States in increasing the age at which full social security benefits begin. Based on legislation introduced in 1983, the United States is undergoing a gradual process of increasing “full retirement age” from 65 to 67 years (Light, 1995). The new rules also have become more flexible, by allowing retirees to collect reduced payments as early as age 62, while individuals who delay retirement past age 67 years receive increased payments (Social Security Administration, 2005).

Government has not been alone in pushing the anti-mandatory retirement agenda. The Canadian Association of Retired Persons has been very vocal and visible in advocating the elimination of mandatory retirement. For CARP, the issue is fundamentally about human rights. They view mandatory retirement as age discrimination (MacAuley, 2005), and CARP is not alone in this view. The Canadian Association of University Teachers (CAUT) and its 48,000 members have formally adopted the position that “[m]andatory

retirement is discrimination on the basis of age, and may give rise to discrimination on the basis of sex or other grounds. Academic staff have a right to continue their employment beyond the standard retirement age under the same terms and conditions” (CAUT, 2002). While academic unions and faculty associations in CAUT have worked with mandatory retirement clauses in their collective agreements, there is some movement towards having these clauses eliminated. For example, just prior to the Ontario government’s decision effectively to ban mandatory retirement, the University of Toronto Faculty Association negotiated the elimination of their mandatory retirement clause.

It is surprising that there has been somewhat of a dearth of research into why older Canadians are leaving the labour force earlier rather than later, typically well before the age of mandatory retirement. Yet for the rising number of older families facing retirement, support for a ban on mandatory retirement is often presented as support for a right to live without ageist restrictions on individual freedom. For the last 20 years, the fact of early retirement may have contributed to a lack of urgency in the push to extend such rights. The recent reversal of this trend may be a harbinger of a shift away from the collective rights of contract towards the individual’s right to be free from ageist restrictions.

## Conclusion

The demographic context has changed dramatically over recent decades, to such an extent that the debate on mandatory retirement is necessarily modified. The context is now one of slowing population growth, population aging, a slowing in labour force growth, and relatively low labour force participation rates among older Canadians. It is anticipated that the public debate on mandatory retirement will increasingly be shaped by an awareness of these trends, particularly given that international migration has a negligible impact on population aging.

Labour force growth is expected to slow considerably over the next decade or so, as the sizeable baby boom cohorts move into age groups that have hitherto been noted for relatively low labour force participation. This is a very different situation from the labour market conditions that characterized the North American economy several decades ago when Lazear put together his widely cited paper on the benefits of mandatory retirement. For example, Canada’s labour market is realistically projected to grow by about 8–10 per cent over the 2001–2011 period (Table 2), in stark contrast to the 35 per cent growth over the 1971–1981 period. As Canadians adapt to this new reality, the political equilibrium

seems likely to shift towards the eventual abandonment of mandatory retirement.

In a context of potential labour shortages, it could easily be argued that it makes sense to translate gains in terms of population health into a lengthening of the working life, which implies further investment in the upgrading and maintenance of skills throughout the life cycle. Changes introduced today in how we define "old age" can have very important consequences over the longer term. The public debate that focuses on the advisability of mandatory retirement can be very useful in this regard. Yet regardless of what happens in terms of mandatory retirement, future trends in terms of population aging will swamp any impact of change in retirement policy, particularly since the overwhelming majority of Canadians seem to have little interest in remaining in the labour force beyond 65. It is far from certain as to whether future labour market conditions and potential changes in terms of the work incentives for older workers will significantly affect the labour force participation of older workers.

## Note

- 1 Gunderson (2003) provides a good discussion of attempts to affect change through legal challenges using the existing federal and provincial human rights legislation.

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